

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2021-104-00250R

Parcel No. 1502153021

Robert Hartig,
Appellant,

vs.

City of Dubuque Board of Review,
Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 31, 2022. Robert Hartig was self-represented. City of Dubuque Senior Counsel Barry Lindahl represented the Board of Review.

Robert and Beth Hartig own a residential property located at 1804 Creek Wood Drive, Dubuque, Iowa. Its January 1, 2021, assessment was set at \$673,152. (Exs. A & F).

Hartig petitioned the Board of Review claiming the assessment was not equitable as compared with assessments of other like property in the taxing jurisdiction. Iowa Code § 441.37(1)(a)(1)(a) (2021). The Board of Review modified the assessment to \$654,430, allocated as 60,000 in land value and \$594,430 in dwelling value. (Exs. A & F).

Hartig then appealed to PAAB reasserting his claim of inequity.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may

consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* "Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value." *Id.*

Findings of Fact

The subject property is a two-story single-family dwelling built in 2014. It has 2940 square feet of gross living area; a full basement with 1045 square feet of living-quarters-quality finish; an open porch; an enclosed porch; and three decks. It also has a 1112-square-foot attached garage with basement, and a one-stall basement garage. The improvements are listed in normal condition with a 2+10 grade (high quality). (Ex. A).

Hartig summarized his belief that the subject property's assessment is too high as compared to other properties and asserts his property is not assessed similarly for the effects of the high voltage power lines and pylons. Hartig provided a history of his property's assessment. He explained the Board of Review lowered his 2021 assessment to \$654,430, but at hearing he asserted it should be \$399,095. (Rebuttal

Ex. 12). However, after the hearing Hartig now asserts his assessment should be \$405,581. (Hartig Post-Hearing, p. 7).

Hartig focuses on two reasons his property is inequitably assessed. First, he asserts several neighboring properties received lower percentage increases than his property and an 11% increase for his property in a single year is too high. Second, he points to a settlement between another Dubuque property, the Ryan property, and the City of Dubuque in his protest and appeal.

Hartig compared the assessments of seven properties located in his development to his property. He explained the properties are closest to the subject and all had smaller increases to their 2021 assessed values. (Ex. 2, pp. 5-7). He asserts the subject's assessed value increased 11% between 2020 and 2021. Hartig calculates the increase in assessments for his comparables between 2019 and 2021, and then divides by two to annualize the increase. We note the difference in 2020 and 2021 assessments for his comparables indicate an increase similar to the subject of between 6.4% and 12.2%, with a median increase of 11.5%. Further, although the comparable property assessments remained the same from 2019 and 2020, Hartig's assessment changed because basement finish was completed.

Hartig also analyzed the assessed value per square foot of finished area. He believes a higher assessment per square foot supports his claim of inequity. He analyzed the same seven properties along with the "Ryan property," a home located at 1759 South Grandview Avenue. Using the subject's base cost from the Iowa Real Property Manual, he made additional adjustments for basement size, basement finish, garage, porches, decks, and patios. He also adjusted the costs for quality based on the MANUAL. His cost estimates were a blend of the Manual and his own personal estimates based on his experience as an architect. He makes comparisons between his estimated cost and the assessed dwelling values for each property. (Ex. 2, pp. 53-56).

In addition to analyzing the dwelling assessments, he believes the site values in the neighborhood are also inconsistent. Hartig explained that some of the lots are valued higher than prior sale prices, some are the same as prior sale prices, and some are below prior sale prices. A pylon is located on the vacant lot at 1822 Creek Wood

Drive. Regardless of a 2013 sale for \$59,500 this property has an assessed value of \$19,250. The lot at 1785 Creek Wood Drive sold in 2012 for \$80,000 and is assessed for \$80,950. (Exs. 47 - 52). He asserts this data shows inconsistent assessed values for lots in his development.

Dubuque City Assessor Troy Patzner testified on behalf of the Board of Review. Patzner testified twenty-one sales from subject's neighborhood were analyzed as part of the 2021 assessment revaluation. The sales had an assessed-value-to-sale-price ratio of 91.6%, indicating that properties were generally assessed for less than market value. As a result, assessments were raised approximately 11% on average for the neighborhood. He explained the subject's assessment was raised in 2020 to reflect completed basement finish. The increase to the 2021 assessment reflected the market value increase. He testified the same market conditions adjustment was made to all of the properties in the development.

Patzner explained the same method of valuation was used for all of the similar sized sites in the development. The first half an acre was valued at \$62,500 and each additional acre valued at \$35,000.

Hartig attempted to rebut the Board of Review's argument arguing an annualized increase should have been determined for increasing the assessments rather than an 11% increase. However, this is not how an increase should be determined for assessment as the properties should be assessed at or near market value. The market values are determined by arm's-length transactions. The assessor examining the difference between the previous assessment and current sale prices to determine the increase to apply to all properties is the reasonable method for mass appraisal.

Hartig's other argument focused on a settlement agreement concerning the Ryan property. (Exs. D, Rebuttal 13, 2 - pp 9-12). Hartig asserts the Ryan property is comparable to his and should be treated in a similar manner regardless of it being significantly larger, higher in quality, and having an assessed value nearly twice the subject property. He refers to both properties as being "upper-end properties in close proximity to high-power lines". Hartig explains the Ryan Settlement Agreement uses the same description for the rationale of its reduction to the assessment. (Ex. 2, p. 10).

Hartig testified the Ryan property was originally assessed in 2020 for \$1,444,110, reduced to \$1,258,890 by the Board of Review, and then had a reduction to \$1,138,580 after a settlement to an additional appeal. (Ex. 2, p. 10). Further, Hartig testified no change was made to Ryan's 2021 assessed value. He believes his 2021 assessed value should not have changed after the Board of Review lowered his assessment in 2020. He believes this is inequitable treatment.

Hartig further testified the Ryan property has a screened view of pylons and asserts his property has a 100% unscreened view of pylons. (Ex. 2, pp. 13-14). In addition, he asserts the Ryan property is 106 feet from its closest overhead high-power line compared to his home being within 9 feet. He also notes the high voltage lines traverse the entire frontage of his property but not the Ryan property.

Patzner explained the reasoning behind the Ryan settlement. The Board of Review submitted an article from the Summer 2017 edition of The Appraisal Journal analyzing the effects of high-voltage overhead transmission lines (HVOTLs) on real property, referred to as the "Seattle study" at hearing. The article examines many studies of HVOTLs from around the world. (Ex. E). Patzner testified a Seattle study was only used in the negotiation process with the Ryans and not to support an adjustment to the assessment. Although both parties at hearing agreed the Seattle and Dubuque markets are drastically different, Hartig relies on a reported 11.23% detriment for high-end Seattle homes, and asserts his home is a high-end home in Dubuque. (Ex. E, p. 4). However, only a few lines after the reporting of that conclusion, it is noted "this study is not applicable outside the Northwest" and "The authors warn against generalizing these results beyond the respective geographical areas". We note this was not even the adjustment applied to the Ryan property in its settlement.

Patzner testified he does not consider the Ryan property to be comparable to the subject property. Lastly, he testified the Ryan assessment was adjusted 5% for the power lines and 15% for the substation. (Ex. D). Patzner stated the Ryan property's proximity to a substation results in a humming noise being heard from the backyard; this resulted in the 15% adjustment, not a view of it. He asserts the adjustment to the

subject's 2021 assessment by the Board of Review was made to reflect its view of power lines. (Hearing and Post-Hearing Memorandum, p. 1).

Ultimately, the Board of Review asserts Hartig has not shown the assessor applied assessing methods non-uniformly to similarly situated or comparable properties. Nor has Hartig shown the actual value of his home or supported an assessed-value-to-sale-price ratio for his comparables.

Analysis & Conclusions of Law

Hartig claims that the subject property's assessment is not equitable as compared with the assessments of other like property in the taxing district. § 441.37(1)(a)(1)(a).

Under section 441.37(1)(a)(1)(a), a taxpayer may claim that their "assessment is not equitable as compared with assessments of other like property in the taxing district." "It is well established that the showing of only one other comparable property in the area or district is not sufficient to afford relief, the rule being that an assessment is not discriminatory unless it stands out above the general level." *Maxwell v. Shivers*, 133 N.W.2d 709,712 (Iowa 1965). See *Crary v. Bd. of Review of Boone*, 286 N.W. 428 (Iowa 1939). "Were the rule otherwise an isolated instance of underassessment might result in a general reduction for all similar properties." *Crary*, 286 N.W. at 430. See *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 (Iowa Ct. App. Aug. 7, 2019).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Hartig submitted the adjoining and nearby properties and asserted they had received less of an increase for their 2021 assessments than his property. His calculation was based on an annualized percentage increase. Hartig calculated the percentage increase to his comparables on a two-year time frame and the subject on a one-year time frame. If only the change to the assessments from 2020 to 2021 are calculated, a very similar percentage increase is found. While simply comparing the percentage increase of

assessments is not a recognized method of supporting inequity, we ultimately find Hartig's property was treated similar to other properties and increases in sale prices generally supported the assessment increases.

Hartig makes numerous assertions regarding inequitable assessment of both the land and improvements. We again note his analysis does not rely on recognized methods of demonstrating inequity. However, in an attempt to briefly explain his concerns, some of his comparable vacant lots he referenced were assessed as unplatted land which may explain the noted assessment discrepancies. As with his land value inequity claims, Hartig is basing his claims of inequity of improvement values on unrecognized methodology. Finally, even if we found his methodology to be reliable, the ultimate question is if the total assessed value is equitable.

In Hartig's own testimony, he stated the majority of his claim is based on the assessment of the Ryan property. While we agree the subject property is or could be called an "upper-end home in an upper-end neighborhood" as asserted by Hartig; we do not conclude his property is directly comparable to the Ryan property. The Board of Review asserted the properties were not comparable which is supported by Ryan's larger size, larger lot, higher quality, and higher value. The Ryan property has the additional detriment of its proximity to an electrical substation. While Hartig has submitted photographic evidence of the Ryan's proximity and view, we find Patzner's testimony regarding the Ryan home to be compelling.

We find Hartig has not supported a claim of inequity under *Eagle Foods*.

An alternative means of demonstrating inequity is to show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell*, 133 N.W.2d at 711. The *Maxwell* test provides inequity exists when, after considering the actual (2020) and assessed (2021) values of similar properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales (2020) and current year assessments (2021) of the subject property and comparable properties. Hartig did not offer sales and did not offer a market value of the subject property. Therefore, a *Maxwell* analysis cannot be completed.

Viewing the record as a whole, we find Hartig's claim of inequity fails.

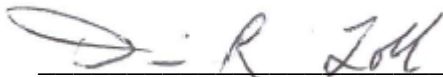
Order

PAAB HEREBY AFFIRMS the City of Dubuque Board of Review's action.

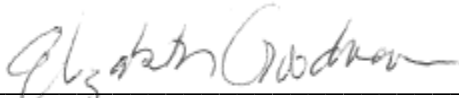
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2021).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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City of Dubuque Board of Review by eFile